

REMARKS

Claim 2 has been rewritten to overcome the objection to it. Claims 7 and 8 were rewritten to overcome the rejection to them under 35 U.S.C. §112, second paragraph.

Claims 9-18, which are non-elected claims withdrawn from consideration, have been canceled, without prejudice or disclaimer, to reduce additional filing fees due for the amendment of claims 7 and 8 making them independent claims. However, applicant reserves the right to file a divisional application containing claims 9-18.

Claims 1, 2, and 5-8 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,445,983 to Hong, in view of U.S. Patent No. 6,091,634 to Wong.

Claims 1 and 2 provide that the insulating layer below the floating gate and the gate of the select field effect transistor is used as a tunneling gate oxide layer.

In contrast, what the Examiner deems to be the tunneling gate oxide layer in Hong, layer 36, (Office Action, page 4, lines 5, 18), is only below floating gate 42, according to the Examiner, (Office Action, page 4, lines 3, 17), but not below the gate of the gate 24 of the select field effect transistor. Instead, layer 22, which is said to be a silicon dioxide gate oxide layer, but is nowhere disclosed to be a tunnel oxide layer like element 36, is below gate 24, (Fig. 3N; column 6, lines 18-38; column 7, lines 24-55).

CLOSING

An earnest effort has been made to be fully responsive to the Examiner's objections. In view of the above amendments and remarks, it is believed that independent claims 1, 2, 7 and 8 are in condition for allowance, as well as those claims dependent therefrom. Passage of this case to allowance is earnestly solicited.

However, if for any reason the Examiner should consider this application not to be in condition for allowance, he is respectfully requested to telephone the undersigned attorney at the number listed below prior to issuing a further Action.

Please charge Deposit Account 50-1290 the sum of \$84.00 for the addition of one (1) independent claim by this amendment in excess of three (3) independent claims covered by the basic filing fee paid herein.

Any fee due with this paper, not fully covered by an enclosed check, may be charged on Deposit Account 50-1290.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Michael I. Markowitz', written over a horizontal line.

Michael I. Markowitz
Reg. No. 30,659

KATTEN MUCHIN ZAVIS ROSENMAN
575 MADISON AVENUE
NEW YORK, NEW YORK 10022
(212) 940-8687
DOCKET NO.:NECF 18.591
MIM:mam
CUSTOMER NO.: 026304